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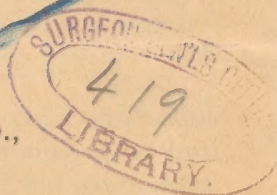
THE

Practice of Medicine?

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Does Special Medical Legislation Improve and Elevate the Practice of Medicine?

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Hamlet soliloquized: "To be or not to be? that is the question." I shall paraphrase by asking: Does Special Medical Legislation Improve and Elevate the Practice of Medicine or not? that is the question. Whether it is better to "bear those ills we have than fly to those we know not of?" "Or take arms against a sea of trouble and by opposing end them?"

I do not by this wish to leave the impression that, like the Prince of Denmark, I am in doubt how the question should be answered. It is quite an easy matter for the willful or the self-opinionated to answer most questions to the entire satisfaction to self, but it is quite another thing to give answer for the acceptance of others. The question before us has been answered times and times again by many of the brightest minds of the last half century—pure and unselfish men, philosophic and philanthropic men—in the negative. But, like Banquo's ghost, it will not down. I do not presume for a moment that I shall be able to present any thing new on this much discussed, and more "cussed," question. The best I can promise to do is to answer it in my own way, and this I shall proceed to do without doubt, fear or favor.

The question is a compound one. That a clear understanding of it may be had it will be necessary to analyze, at least sufficient for the cardinal features to stand out prominently. *Does Special Medical Legislation Improve and Elevate the Practice of Medicine?*

1. Medicine.
2. Practice of Medicine.
3. Improve and Elevate.
4. Special Legislation.

This quadripartite will serve my purpose.

1. What is medicine? Here there is a flood-gate opened ready to overflow the highest and strongest intellectual embankment. In other words, there are such ambiguous opinions held, even by the profession, that a rational answer requires a Herculean master to grapple with it. Every since the earliest dawn of medicine, it has been a subject of dispute and contradictions. Galen, the particular bright star of the second century, condemned the doctrine of Hippocrates, the "father of medicine," whose brilliancy shown on the world B. C. 460, as barbarous and unscientific. And so has it ever been to the end of the chapter. What is legitimate medicine to-day is sheer nonsense to-morrow. Its history proves it to be largely a matter of speculations and opinions of its devotees. I have an opinion—so have you—so has the next man. Can legislation harmonize the difference? I have the same innate right to mine that you have to yours, or the "King" has to his. Has the State in any sense, the right to rob men of opinions honestly entertained? If not, and it certainly has not, why legislate to make State medicine and not State religion?

2. *Practice of Medicine.* Here we find ourselves in an inconsistent labyrinth of inharmonious contradictions. To enter is confusion, to attempt to follow its paths, ways and byways, is "confusion confounded;" to remain is to acknowledge defeat. I shall not place myself in danger of such a misfortune befalling me at this hour, but content myself by a hasty glance at the huge carcas of the hippodrome. Act upon the saw, "Distance lendeth enchantment."

The practice of medicine is largely under the dominion of the "fickle goddess of fashion." At least it has its *fashions*. At one period it was the fashion—coming down to modern times—to salivate to rottenness, then moderately, then but *very little*, and then not at all; a companion to mercury was the sharp pointed lancet, etc., and as a groomsman "starvation" was always in attendance. After a long reign of these fashions, the fickle goddess imagined the primitive "Garden of Eden" furnished the only style suitable to man's condition, and the edict went forth:

The sick shall only eat, eat, eat, and *vis medicatrix naturæ* will clothe the body to health. Sugar pillets were declared a fashion; then "steam and sweat" had their devotees; then this fashion, then that, rules for the hour.

After careful perparation and observation of the general laws of cure—cause and effect—the observing, thoughtful and self-respecting practitioner of medicine is, so to speak, a law unto himself in his duties to the sick. This rule, of course, will not apply to slaves to so-called authority—and the number is not small—nor to those who have eyes and see not, ears but hear not, brains but think not. Then how unphilosophic, waiving the question of equity, to enact special laws applicable to such a heterogeneous element.

3. *Improve and E'evate.* What? The *Practice* of medicine. How? By Special Legislation. The objects sought are certainly of the grandest that can engage the attention of thoughtful men, but the means suggested—special legislation—come far short of a philosophic solution of the *how* it is to be accomplished.

Education is the factor in the healing art, but by no means the only one. *Fitness* enters before education, and this premise includes many conditions. It is not my province here to speak of the factor, fitness, for the profession.

Proper legislation may be of great utility in the improvement of medicine by making it possible for those ambitious to enter the profession to be more liberally and thoroughly educated. This points to medical colleges. Here I would encourage and demand wise and stringent legislation, and here only on medical matters. But, this is too broad in its bearings to attempt here to elucidate. I will remark, the victim should not be legislated against and receive the punishment that should be directed toward his "alma mater." Herein lies the chief injustice in most all special medical legislation, and is wrong in principle and unjust in execution. Whilst I am decidedly in favor of raising the standard of medical education to the highest grade possible, and thereby broadening the usefulness of the profession, I am

just as radically and uncompromisingly opposed to the erection of legislative bars excluding all those so unfortunate as to be unable to reach the ideal standard. Neither am I in favor of "gag-law," debarring all from the possibilities of the profession but a select few; nor of arbitrary rules measuring the possibilities of any man electing to enter the practice of medicine. "Greenness is a sign of growth." Hence, the high and lofty "bull" issued in 1886 by a body of would-be "keepers of the seal" of medical purity and wisdom, and professional dignity, that "a classical education for all students" shall be the standard before entering as medical students, this to be enjoined and enforced by State and National legislation, does not strike me with volcanic force. That no aspiring youth shall be permitted to enter the charmed arena of medical lore until he has mastered Latin and Greek, and can sign himself "Latin, A. B.," or "Greek, A. M.," is pushing the standard of preparation far beyond reason and justice. And I am glad to say, will not be looked upon favorably by only the few would-be learned cranks in the profession, and not tolerated at all by the lover of fair-play—the American freeman. But there is still the fact, the element in the medical profession who would cut off every man's head, Nero-like, in its way by legislative procedure. The spirit manifested would fetter and throttle the Goddess of Liberty. For myself, I wish to say, I do not wish to be found even in the borders of the shadow of such a narrow and tyrannical and unjust spirit. Do these would-be autocrats ever think for a moment that those for whom they are so solicitous—"the dear people"—do not care a fig for classics when sick? The question is: Does the called doctor understand his business? Is he well read up in medicine? The culture the classics may give is not thought of. A good doctor is what is wanted, and not an accomplished linguist. Neither such as Pope would describe:

"The bookful blockhead, ignorantly read,
With loads of learned lumber in his head."

There is no fact more patent in medical observation than the fact that the common-sense and practical man, with liberal read-

ing, will save ten lives where the technically scientific and classical "book-worm," "with loads of learned lumber in his head," will save one. And there is another point I wish to notice in this connection, and it is: the grandest possibilities may be slumbering in the youth whose circumstances have precluded a classical culture, or even a very liberal education. There may be innate possibilities, innate powers struggling for recognition, and who knows, an embryo Harvey may be knocking at the door of the profession. Who knows? Shall such a one be debarred, by legal enactments, the right to enter? Give me choice, and any man who would lay a fettering hand upon worthy and aspiring youth should sink a thousand fathoms in mid ocean, rather than one such youth should be denied the privilege by legislative procedure of the development of his innate possibilities. The true American protests titled rulers. The song of liberty is: *Every citizen a sovereign*. Let not the mistake be made in the effort to improve and elevate the standard of professional manhood by making the statute book a tyrant—the law an oppressor.

I do not desire to leave the impression that philology is to be ignored. By no means. The more of such culture the better, but not at the expense of the culture essential in a sound medical education. The point I wish to make is the futile and unjust attempt to establish, by special statutes, an arbitrary standard gauge as a guide to the measure of merit and possibilities of untried men. What if some do enter like wolves and bring a blot on the profession, this is no excuse nor reason for arbitrary and unjust special legislation. Better, far better, that a hundred guilty men go free than that one innocent should receive punishment. As a rule, the measure for good works cannot be determined by a man's aptness in answering picked and stated questions. This is true of the most useful and reputable men in the profession, and of those knocking at its doors. This being true, and I dare its refutation, strong and sufficient reason is given why every "medical examining board" in this broad land should be hurled from power forever. And, then, let every man stand or fall on his own merits. This is God's law, it is

Nature's law, and should be the law of every State in the Union.

When it is taken into account that the best that can be said of medicine is that it is empiricism—if this is too terse, “rational empiricism”—dependent upon facts, opinions, theories and absurdities, where every rational practitioner is to a certain limit a law unto himself, the absurdity and injustice of special enactments making it a penal offense for one man to differ from another in “theory and practice,” is brought into the clear light of common sense, which is always opposed to injustice and the usurpation of the rights of the humblest creature. The limits of this paper will not permit me to dwell.

My reasons for objecting to special medical legislation or State control of medical education and practice, may be stated in the following codification:

1. The whole question of medical legislation is a fraud and a usurpation.

2. It is out of all harmony with the genius and spirit of a free and sovereign people, who do not ask for such legislation; and is in direct conflict with the genius and spirit of our Government, as well as with the written organic law of the land of the “Star spangled banner.”

3. I object to State control of medical education and practice because I am uncompromisingly opposed to the State fathering a “trade-union” in the medical profession; this State medicine does, this pure and simple, gloss it as we may.

4. I object to State control, because opposed to lowering the profession of medicine to the basis of a mere trade.

5. I object, because it places the medical profession under police regulation and servility, ignobling the noblest calling of man to that of the criminal code. “*Registration*, smile at it as we may, implies baseness, criminality, the tendency of which is to cast suspicion and dishonor upon him who is required to register.”

6. The sickening cant about “protecting the dear people” is a mere subterfuge of, not the friends of the people, nor of the profession, but those supremely selfish and arrogant men and

their dupes, seeking a mortgage on the "dear people's" patronage. I object to the mortgage being granted.

7. I object to State control by special medical legislation because, no matter how constructed, there will be abuses of power to the prejudice and injury to worthy and capable men. It creates a monopoly to a limited number of persons, debarring others from the exercise and enjoyment of the franchise of the profession of medicine. Hew it, gloss it as we may, it is "class legislation"—favoring a few to the exclusion and detriment of many.

8. A special act of the legislature that confers special privileges upon a limited number of persons to the exclusion and injury of the people at large, and without their expressed consent, is an assumption of power not delegated by the people to the law-making power of the State, and, therefore, out of all harmony with the genius of a free government. And to anything anti-American I object.

9. I object to special or "class legislation," because by the abridgement of personal, innate privileges and rights and conferring special privileges upon a limited few, a line of caste in society and State is established, highly objectionable to every manly man—one class is elevated to the abuse and injury of another class. An oligarchy is enthroned, oppression sways the sceptre, "star chambers" are ruled by the hand of usurpation in the shadows of "health boards," "examining boards," centralized boards in the medical profession, created by special or caste legislation. A law must not unfairly discriminate, must be general in its nature, and impartial in its operations.

10. I object to State medicine, because there is in it that "Roman" spirit: "belong to us, be of us, or every right will be abridged."

11. I object to State control, because the State cannot furnish brains. Its duty is to provide the greatest opportunities and facilities for the development of the possibilities Nature has furnished. I want no fettering of the spirit, no shackles upon

the ubiquity of mind. Without freedom there can be no real progress.

12. I object to special medical legislation, because its regulations directly affect inter-State relations. It not only exercises jurisdiction of the State over persons within its limit, but also jurisdiction over persons of other States. Hence, contrary to the Constitution of the United States. It cannot be supposed that the Constitution intends to limit the freedom of professional comity any more than commercial interests. The Constitution says: "No State shall make or impose any law which shall abridge the privileges or immunities of citizens of the United States." Special medical enactments as enforced certainly violate this provision.

13. I object to State medicine, because the chief purpose of the leaders of such statutes is to utterly crush every man outside the allopathic ranks; that by enacting examining boards in every State composed entirely of allopaths, no man may practice medicine except by their authority. This is the plain, unvarnished truth of the whole question, ambash in flattery as they may. This being the chief purpose—and I am but stating a glaring fact with a few exceptions—the only real purpose worked for in special medical enactments, it behoves every lover of justice, fair play, and the rights of man to object in no uncertain sound.

14. I do *not* object to health boards as such, they have a grand and noble province, if filled in the spirit of their creation. If the laws as handed to them are enforced with as little friction and meddlesomeness in private affairs of others as the nature of their legitimate duties will warrant, then they should receive the hearty support of all men. It is only when they arrogate to themselves illegitimate duties, and enact and impose ethical rules and professional standards not contemplated by the State, "health boards" become obnoxious and should then be ostracized as usurpations.

15. I object to meddlesome legislation of whatever nature, for there are many evils in its train. "The world is governed

too much" is a maxim so trite that it has almost lost its force, more is the pity, for it is a profound truth. It is true society cannot prosper without government, but the less it can get along with the better. Other things being equal, that is the best government which is the least felt and which meddles the least with the private affairs of its citizens. All laws should relate to society as a whole and not to any particular class, and should aim to establish fundamental principles rather than special rules. It is a mischievous theory which attempts to regulate and reform every thing. There is more to be feared from too much legislation than there is from too little. Meddlesome legislation is a great and growing evil.

16. The legislation in some of the States, and demanded in others, is not only mischievous and meddlesome, but most tyrannical, selfish and monopolizing in character. It would brand the common acts of benevolence a crime, shackle the hand of the mother who would dare administer to her sick babe without the consent of one of the would-be czars of the healing art, fine and imprison the priest who would follow the scriptural injunction to pray for and anoint the sick.

17. I object to meddlesome and special medical legislation, because, thereby the hands on the dial of progress are turned back. Hence can neither improve nor elevate the healing art.
